NOT DESIGNATED FOR PUBLICATION

ARKANSAS COURT OF APPEALS

DIVISION II
No. CA08-1217

CYNTHIA WINGFIELD, APPELLANT V. JEFFREY WINGFIELD, APPELLEE	**Opinion Delivered** MAY 13, 2009 APPEAL FROM THE PULASKI COUNTY CIRCUIT COURT [NO. DR 07-973] HONORABLE TIM FOX, JUDGE AFFIRMED

KAREN R. BAKER, Judge

Appellant Cynthia Wingfield challenges the trial court's award of custody of the parties' minor child to appellee Jeffrey Wingfield asserting that the award was clearly against the preponderance of the evidence. We find no error and affirm.

In reviewing child-custody cases, we consider the evidence de novo, but will not reverse the trial court's findings unless they are clearly erroneous or clearly against the preponderance of the evidence. *Middleton v. Middleton,* 83 Ark. App. 7, 113 S.W.3d 625 (2003). A finding is clearly against the preponderance of the evidence when, although there is evidence to support it, the reviewing court is left with a definite and firm conviction that a mistake has been made. *Id.* We also give special deference to the superior position of the trial court to evaluate and judge the credibility of the witnesses in child-custody cases. *Durham v. Durham,* 82 Ark. App. 562, 120 S.W.3d 129 (2003). We know of no cases in which the superior position, ability, and opportunity of the trial court to observe the parties carry as great

a weight as those involving children. *Dunham v. Doyle*, 84 Ark. App. 36, 129 S.W.3d 304 (2003). In custody cases, the primary consideration is the welfare and best interest of the child involved, while other considerations are merely secondary. *Durham*, *supra.*

Applying this standard, we cannot say with a definite and firm conviction that a mistake has been made. The parties were divorced by decree filed March 21, 2008. The trial court found that appellant established grounds for divorce from appellee and granted her an absolute divorce. The trial court further found that it was in the best interest of the parties' minor child to award custody to appellee. Specifically, the trial court noted its belief that if appellant were awarded custody that the court could not count on visitation being in the manner ordered by the court.

The evidence supports the trial court's observation. Prior to the parties' separation, appellant was the primary caregiver for the child. It was undisputed that she cared for the child almost to the complete exclusion of others. Appellant described how, prior to the separation, the child never stayed overnight with her parents or anywhere else without her. Appellant testified that she had only permitted her parents to pick up the child from school once or twice in the last four years, and that appellee should not allow his parents to pick up the child from school, unless she was given the first opportunity to retrieve the child. She also stated that she needed to know if appellee allowed his parents to pick the child up from school and if the child was allowed to spend the night with appellee's parents. She explained that if the child had attended school that day, but was not feeling well even without a fever, she would expect appellee to skip visitation. She admitted speaking disparagingly of appellee and

his family in front of the child. Furthermore, she failed to facilitate visitation on at least two occasions necessitating an order from the trial court to rectify the situation.

The trial court's concern is further supported by the testimony of appellee's sister-in-law. His sister-in-law described a history of appellant's isolation from family. She witnessed appellee's mother make frequent efforts to bring appellant with appellee and the child into family gatherings and events, but despite these efforts, visits were limited to only a few times a year. She described her and her husband's early attempts in the almost twenty years of the parties' marriage to facilitate a relationship, but explained that those attempts were not successful. A further concern was the child's complete lack of recognition of his aunt when they met spontaneously at a retail store, and almost no communication regarding major events in the lives of appellant and appellee during the time they were a couple. Appellee's sister-in-law also expressed the family's concern for engaging in normal conversation around appellant for fear that they would say something that appellant would find offensive and explained the general tension present in family gatherings arising from the family's guarded interactions in fear of alienating appellant.

We are duty-bound to honor the credibility determinations made by the trial court that the father was more likely to ensure facilitation of visitation. *Sykes v. Warren*, 99 Ark. App. 210, 218, 258 S.W.3d 788, 793 (2007). However, in this case, it is not the sole factor to support a finding that the best interest of this child was better served in his father's custody. *See id.* Testimony of appellee's brother confirmed that since the parties' separation, interaction with the minor child had been frequent and pleasant with an increasing level of

the child's excitement of spending time with his cousins. The visits had been very relaxed and enjoyable. He contrasted the child's attitude at the time of the hearing with his obvious tension and anxiety prior to the parties' separation. He also described appellant's parenting skills as being very management-focused with no difference between a relaxed conversation and a strictly controlled conversation. On the other hand, his observation of his brother's parenting depicted a relaxed, but not inattentive, attitude as appellee had eased more fully into his father role. Appellee's brother explained that appellee's previous lack of confidence in his parenting skills had passed, and he further described the difficulty appellee had faced with parenting a child who was so emotionally enmeshed with appellant that a simple task such as tying his own shoes was problematic. Appellee's current confident approach, which encouraged the child's independence, is supported by this testimony.

Under these circumstances, we cannot say that we are left with a firm and definite conviction that the trial court made a mistake in finding that the best interests of the child would be served by awarding custody to the appellee. Testimony supported the trial court's observation that the appellee would facilitate visitation and the trial court's concern that appellant could have difficulty supporting the trial court's visitation order. While facilitation of visitation is not alone sufficient for a best interests determination, the facts of this case support the conclusion that the trial court's concern arose from appellant's history of isolation from family with no development of a network of community support. The support of family and friends and the skills to maintain those relationships, are vital to a child's sense of belonging and comfort. The support of other adult family members with whom the child has

established rapport and confidence are an invaluable resource for his continued well being. Accordingly, we cannot say that the trial court erred in placing custody of the minor child with appellee.

Affirmed.

VAUGHT, C.J., and MARSHALL, J., agree.